HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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Writ Petition No. 15240 of 2005

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Dated: 09th December, 2005

Between:

1. Mohd. Imran, S/o.Mohd. Rizwanul Quasmi,

R/o.3-5-783/20, King Koti, Hyderabad and others.

..... PETITIONERS

AND

1. Special Grade Deputy Collector and Revenue Divisional

Officer, Ranga Reddy District East Division at

Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.15240 of 2005

ORDER:

This writ petition has been filed by the petitioners, who are four in number, assailing the Order dated 21.05.2005 in Case No.A2/3565/2004 passed by the Special Grade Deputy Collector and Revenue Divisional Officer, Ranga Reddy East Division-1st respondent.

2. M/s.Darul-Uloom Sabeel-Us-Salam represented by Syed Aizaz-ur-Rahman-3rd respondent filed an appeal before the Special Grade Deputy Collector and

Revenue Divisional Officer, Ranga Reddy East Division-1st respondent assailing the order dated 09.04.1995 passed by the Mandal Revenue Officer, Saroornagar Mandal, under the provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act'). Pending the appeal being Case No.A2/3565/2004, 3rd respondent/appellant filed an application seeking appointment of Advocate Commissioner/Mandal Surveyor for the purpose of ascertaining the nature of the property involved in the case i.e. land admeasuring Ac.46.00 cents comprising Survey No.210/1 situated at Balapur Village, Saroornagar Mandal, Ranga Reddy District. The said application came to be allowed by the appellate authority on 21.05.2005. Hence, this writ petition.

3. Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for the Respondents 1 and 2 and learned counsel appearing for the 3rd respondent.

4. Learned counsel appearing for the petitioners submits that the appellate authority under the provisions of the Act has no power to appoint Advocate Commissioner/Mandal Surveyor to inspect the suit land to note the nature of the property. He refers Rule 20 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (for short, 'the Rules'), in support of his contentions.

5. What he means to say is that the authorities under the Act can enter upon, inspect and measure or cause to be measured any land, but, they have no power to appoint Advocate Commissioner to note the nature of the property. His contention can be repealed by referring to Rule 28 of the Rules, which reads as follows:

> "**28. Miscellaneous:-**
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> Every Recording Authority, Appellate Authority or other Officer holding an enquiry under the Act shall have, in addition to the powers referred to in clauses (a) and (b) of Section 10 of the Act the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a suit for

the purpose of entering upon and inspecting any land or taking or cause to take measurements thereof."

In view of the above referred Rule, the appellate authority is empowered to appoint Advocate Commissioner to note the nature of the property. Another fact required to be noted is that the petitioners neither filed counter nor orally opposed the application filed by the 3rd respondent/appellant before the appellate authority seeking appointment of Advocate Commissioner/Mandal Surveyor. In that view of the matter, I do not see any substance in the contention raised by the learned counsel appearing for the petitioners that the appellate authority has committed error in appointing the Advocate Commissioner to note the nature of the property.

6. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Date: 09th December, 2005.

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